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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,048	10/08/2003	Michael Nally	57471/03-380	2716

22206 7590 05/05/2005

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EXAMINER

GRAHAM, MARK S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,048

Applicant(s)

NALLY ET AL.

Examiner

Mark S. Graham

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-12 and 26-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-29 is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 6-12 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu in view of You. Yu discloses the use of carbon fibers. However, titanium fibers (which form a metallic screen) are also known and used in the art as disclosed by You. It would have been obvious to one of ordinary skill in the art to have used such fibers as Yu's fibers to obtain a particular strength/flexibility characteristic provided by those fibers. A layer with these fibers may be considered the claimed screen.

Concerning the arguments over the "recessed area", again, as noted in the previous action, Yu's cue includes a wooden portion 66 and fiber reinforced portions 68 and 64, which comprise fibers layered over a core portion at either side of the wooden portion. Where the 66, 68, and 64 meet there is a smooth transition as can be seen in Fig. 6. Therefore the fiber covered portions 64 and 68 necessarily require a recessed core portion relative to the wooden portion 66 to accommodate the increased diameter caused by the fiber portions which have an outer diameter which matches that of wooden portion 66 at their juncture points.

To further aid applicant in understanding the point attention is directed at Fig. 3 which shows the diameter of the core 24 where fiber layers are wrapped over it. To accommodate these fiber layers yet still present a cue section which smoothly joins with

Art Unit: 3711

a wooden section as disclosed in Fig. 6 this core portion must be recessed relative to the wooden section 66. Applicant's statement that the entirety of this embodiment is covered with fiber material is simply incorrect. Where in the discussion of Fig. 6 does applicant find this teaching?

Concerning the metallic screen, Yu discloses the use of carbon fibers. However, titanium fibers are also known and used in the art as disclosed by You. It would have been obvious to one of ordinary skill in the art to have used such fibers as Yu's fibers to obtain a particular strength/flexibility characteristic provided by those fibers. A layer with these fibers may be considered the claimed screen.

Regarding claim 2, Yu disclosing the claimed structure would inherently perform the claimed function.

Regarding claims 7-9, Yu discloses the use of carbon fibers. However, the examiner takes official notice that graphite, fiberglass, and Kevlar are commonly known and used in such applications as well. It would have been obvious to one of ordinary skill in the art to have used such fibers as Yu's fibers to obtain a particular strength/flexibility characteristic provided by those fibers.

Concerning claim 10, the examiner takes official notice that metal ferrules are commonly known and used in conjunction with cue tips to fasten such to the stick and it would have been obvious to one of ordinary skill in the art to have used the same to fasten Yu's tip.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yu in view of Mancuso and You.

Yu, as explained above, in his Fig. 6 embodiment discloses the claimed device with the exception of the rigid sleeves and metallic screen.

With regard to the rigid sleeves Mancuso teaches that it is known in the art to use such sleeves to join the cue sections together. It would have been obvious to one of ordinary skill in the art to have used such sleeves on Yu's stick as well to make it more portable.

Concerning the metallic screen, Yu discloses the use of carbon fibers. However, titanium fibers are also known and used in the art as disclosed by Yu. It would have been obvious to one of ordinary skill in the art to have used such fibers as Yu's fibers to obtain a particular strength/flexibility characteristic provided by those fibers. A layer with these fibers may be considered the claimed screen.

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 26-29 are allowed.

Applicant's arguments filed 4/25/05 have been fully considered but they are not persuasive. Applicant's arguments with regard to the recessed area and metallic screen have been addressed above.

This is a continuation of applicant's earlier Application No. 10/681,048. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL**

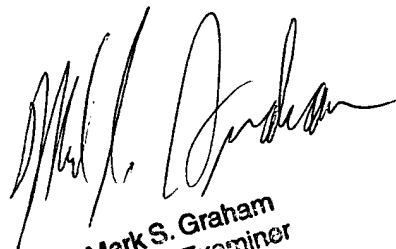
Art Unit: 3711

even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG
4/29/05



Mark S. Graham
Primary Examiner